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10
11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE DISTRICT OF ARIZONA

13 IN RE BARD IVC FILTERS PRODUCTS
14 LIABILITY LITIGATION

No. 2:15-MD-02641-PHX-DGC

(AZ Member Case - 2:18-CV-4319)

15 This Document Applies to:

16 **STEPHEN WETOWITZ**

**STIPULATED MOTION FOR
SUBSTITUTION OF PLAINTIFF
DUE TO DEATH**

17
18 Pursuant to Rule 25(a)(1) of the Federal Rules of Civil Procedure, Paul Wetowitz,
19 as personal representative and executor of the estate of Plaintiff Stephen Wetowitz, Jr.,
20 moves to substitute in as plaintiff in this action due to the death of Plaintiff Stephen
21 Wetowitz, Jr. Defendants have stipulated to the substitution requested in this motion.

22 Plaintiff Stephen Wetowitz, Jr. passed away on or about December 14, 2018. As a
23 result, Stephen Wetowitz, Jr. can no longer serve as plaintiff in this suit. Movant Paul
24 Wetowitz is the personal representative and executor of the estate of Plaintiff Stephen
25 Wetowitz, Jr. and could serve as the proper plaintiff to pursue the claims of Stephen
26 Wetowitz, Jr. and his estate in this suit.

27 Paul Wetowitz and Plaintiff's counsel are exploring whether Stephen Wetowitz,
28 Jr.'s death was related to Defendants' IVC filter that is the subject of this lawsuit. While

1 they investigate those matters and due to the death of Stephen Wetowitz, Jr., Paul
2 Wetowitz seeks to substitute as plaintiff pursuant to Rule 25(a)(1) to represent the
3 interests of the estate and Stephen Wetowitz, Jr.'s survivors in this action. In the event
4 that Paul Wetowitz and his counsel determine that Stephen Wetowitz, Jr.'s death was
5 related to Defendants' IVC filter, they will separately move pursuant to Rule 15(a) to file
6 an amended Short Form Complaint to add claims for wrongful death.

7 Plaintiff's counsel has conferred with defense counsel regarding this motion, and
8 Defendants consent to the substitution requested by this motion.

9 For the foregoing reasons Plaintiff respectfully requests that Paul Wetowitz, in his
10 capacity as personal representative and executor of the estate of Stephen Wetowitz, Jr., be
11 substituted as a Plaintiff in this matter for Stephen Wetowitz, Jr.

12 RESPECTFULLY SUBMITTED this 7th day of August 2019.

13
14 **DALIMONTE RUEB STOLLER, LLP**

15 By: /s/Paul L. Stoller

16 John A. Dalimonte
17 Paul L. Stoller
18 Ashley Crowell

19 *Attorneys for Plaintiff*

20 **NELSON MULLINS RILEY &
21 SCARBOROUGH, LLP**

22 By: /s/Paul L. Stoller for (with permission)

23 Richard B. North, Jr.
24 Matthew B. Lerner

25 *Attorneys for Defendants*
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CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of August 2019 I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing.

/s/ Donna M. Berrios